

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare- West Godavari District –Revision petition filed u/s.6 of APSALTR, 1959 r/w 1/70 by Smt Nandamuri Atchamamba W/o Satyanarayana Murthy R/o Rajampalem (V) and other – Against the orders of Agent to Government, Eluru in S.R.A No: 8/1999 dated 14-2-2001 - Dismissed- Orders –Issued.

SOCIAL WELFARE (LTR-1) DEPARTMENT

G.O.Ms.No: 111

Dated:12-6-2008
Read the following:

1. Revision Petition filed by Smt.Nandamuri Atchamamba W/o Satyanarayana Murthy R/o Rajampalem (V)Gopalapuram(M) West Godavari dt;3-5-2001.
2. Govt.Memo.No.7025/LTR1/2001-1, dated 24-5-2001.
3. Govt.Memo.No.7025/LTR1/2001-1, dated 20-6-2001
4. From the Collector, West Godavari Dist. Rc.No: F4/4632/01 dt: 20-4-05.
5. Govt Memo No:7025/LTR1/2001-6, dated 12-8-2005, 16-9-05, 20-3-07, 26-3-07, 2-4-2007 and 6-11-07.

ORDER:

In the reference 1st read by Smt.Nandamuri Atchamamba W/o Satyanarayana Murthy R/o Rajampalem (V)Gopalapuram(M) West Godavai has filed a Revision Petition before the Govt. u/.s. 6 of APSALTR 1959 r/w 1/70 Against the orders of Agent to Government, Eluru in S.R.A No: 8/1999 dated 14-2-2001 in respect of land measuring Acres 3.47 cts in R.S.No.393/5 and measuring Ac.1.75 cts in R.S.No.393/7. of Pragadapalli Village of Polavaram (M) of West Godavari District. The Main Grounds of the Appeal are as follows:

- i) The Spl.Dy.Tahsildar, Kota Ramachandrapuram gave notice only in respect of RS No.90 to the extent of Acs.1.10 cts of Pragadapalli village but conducted enquiry in respect of lands situated in RS Nos. 393/5 and 393/7 which is against principles of natural justice.
- ii) The SDC (TW) Kota Ramachandrapuram passed an order on 10.9.1990 in SR Nos.699 and 700/1985 upholding the title and possession of Smt. Nandamuri Atchamamba in respect of RS Nos.393/5 and 393/7 and the said order has become final and as such the impugned proceedings are clearly barred by Resjudicata.
- iii) The petitioners purchased the land of Ac.1.10 cents in RS No.19 through a sale deed and obtained in the year 1971 and it is in their possession and enjoyment along with the lands in RS Nos.393/5 and 393/7 from inception.
- iv) Agent to Govt. committed an error in coming to conclusion that the oral gift towards PASUPU KUMKUMA is not valid is totally contrary to the decision of the Hon'ble High Court vide 1979 (2) A.P.L.J. Page 421 (D.B) = AIR 1980 A.P. Page 139 wherein it was held that gift of lands in favour of the daughter sister towards Pasupu Kumkuma as marriage provisions requires no writing and no registration.

2. The brief history of the case is that the Special Deputy Collector (T.W) , Kota Ramachandrapuram had initiated a LTR case, on the report of Spl.Deputy Tahsildar (T.W) No.II, K.R.Puram is as under---

I. As per orders of SDC (TW) KRPuram in SR Nos.699/85 & 700/85, dt. 10.9.1990

- i) Spl.Dy.Tahsildar (TW) No.II, Kota Ramachandrapuram filed complaint against Nandamuri Atchamamba W/o Satyanarayana that she is in illegal occupation of lands in RS No.393/5 (in SR No.699/85) measuring Acs.2.47 and RS No.393/7 (in SR No.700/85) measuring Acs.1.75 – Acs.4.22 in Pragadapalli, an agency village in Polavaram Mandal of West Godavari District in contravention of LTR provisions.

- ii) A copy of rough patta issued by the Settlement Officer, Eluru disclosed that an extent of Ac.11.06 cents was granted in favour of three brothers viz., Vyshnapu Gangaiah, Jagganna and Satyanarayana.
- iii) These brothers gave 1.00 acre from the share of Vyshnapu Satyanarayana in favour of Smt. Kakarla Appayamma as Pasupu Kumkuma who is daughter of Vyshnapu Satyanarayana. Kakarla Appayamma also purchased an extent of Ac.2.00 in Old survey Nos. 19 and 20 from the total extent of Ac.12.94 from the daughters of Vyshnapu Gangaiah, through registered sale deed No.363, dt. 30.6.1962 and another extent of 1.00 ac. in Patta No.22 (total extent 4.00 acres) from Vyshnapu Jagganna (paternal uncle) and his sons through registered sale deed No.445, dt. 24.7.1968. Thus, Kakarla Appayamma was in possession of totally 4.00 acres which was surveyed as RS Nos.393/5 and 393/7 measuring Acs. 2.47 and 1.75 = Acs.4.22. Smt. Kakarla Appayamma is having only daughter i.e. Nandamuri Atchamamba and hence the above lands inherited to Atchamamba. Since the lands are under the possession and enjoyment of the respondent's family and that the lands were never held by the tribals at any time, the complaint of SDT was disallowed.

II. S.R.No.477/98, dt. 30.12.1998 of SDC (TW) K.R.Puram

- i) Special Dy.Tahsildar (TW) No.II filed complaint against Nandamuri Atchamamba W/o Satyanarayana that Atchamamba is in occupation of Acs.1.10 in old survey No.19 in contravention of LTR.
- ii) It was held that there is no document executed for transfer of lands in RS Nos.393/5 (2.47 acs.) and 393/7 (1.75 acs.) from Kakarla Appayamma to Nandamuri Atchamamba and that because Atchamamba is enjoying the lands, her name is included in Revenue Records.
- iii) But as per records the above lands were held by Vyshnapu Subba Rao S/o Satyanarayana. Subba Rao gifted these lands to his daughter Smt. Daparthi Sumathi in her marriage.
- iv) Since Daparthi Sumathi is holding RS Nos.393/5 and 393/7 in full on a transfer and her holding is attracted to LTR, she is added as second respondent.
- v) Irrespective of the year and date on which transfer was effected the case is attracted by section 3 (1) (a) and (b)
- vi) Hence, complaint of SDT (TW) No.II allowed.

III. SRA No.8/99, dt. 14.2.2001 of Agent to Govt. Eluru

- i) According to correlation statement old survey Nos. 19 and 20 are RS Nos.393/5 and 393/7 measuring Acs.2.47 + Acs.1.75 which stand registered in the name of Kakarla Appayamma i.e. mother of Nandamuri Atchamamba.
- ii) Kakarla Appayamma purchased 2 acres vide document No.363, dt. 30.6.1962 (in old survey No.19) from Andru Ganemma and another 1 acre vide document No.445, dt. 24.7.1968 (in patta No.22) from Vyshnapu Jagganna. These 3 acres were gifted to Nandamuri Atchamamba towards Pasupu Kumkuma but there is no recorded evidence.
- iii) Subsequently, Nandamuri Atchamamba purchased an extent of Ac.1.10 from Vyshnapu Jaganna and his sons Ranga Rao, Venkataratnam (old survey No.19) through sada agreement dated 12.11.1969 and later got it registered as document No.360, dt.27.8.1971, which is not valid.
- iv) EC did not disclose any RS Numbers of land – previous sale took place between Kondabattu Subbayamma and Vyshnapu Subbanna covered by OS No.19 – Ac.3.71 and OS No.20 – Ac.2.76. The document prior to 1932 is not valid without having prior permission from the competent authority.

- v) Hence, the Agent to Government, West Godavari District had issued orders in SRA No.8/99, dated 14-7-2001 confirming the orders of Special Dy. Collector (TW) orders in SR No.477/98, dt. 30.12.1998. Aggrieved by the orders of Agent to Government, the Petitioner filed Revision Petition before the Government.

3. In the reference 2nd and 3rd read above, duly staying the orders of Agent to Govt. Eluru, the Collector, West Godavari was requested to furnish parawise remarks and case records. The same have been received through the reference fourth read above. After examination of the Parawise remarks and case records, notices were sent to all concerned to attend the hearing of the Revision Petition on 29-8-05 and after several adjournments the case finally came up for hearing on 20-11-2007 vide reference fifth read above. The Counsel for the Petitioner was present .

4. Government after perusal of material evidence on record and after hearing the arguments of the counsel for petitioner it is observed that ----

1. The entire extent of Acs.2.47 + Acs.1.75 = Acs.4.22 (in RS Nos.393/5 and 393/7) stand registered in the name of Kakarla Appayamma i.e. mother of Nandamuri Atchamamba according to the correlation statement as held by the Agent to Govt. Eluru. But, there is no recorded evidence of transfer from Kakarla Appayamma to his daughter Nandamuri Atchamamba.
2. Another extent of Ac.1.10 purchased by Nandamuri Atchamamba from Vyshnapu Jagganna and his sons Ranga Rao, Venkatratnam (old survey No.19) through sada agreement dated 12.11.1969 has no value in the light of the judgement of the Hon'ble High Court of AP in Bangaru Ramatulisamma Vs Yada Masthan Reddy in CRP No.1087/96, dt. 10.8.1998 that unstamped and unregistered sale deeds cannot be taken as an evidence of proof under section 17 B of Registration Act. The subsequent registration on 27.8.1971 i.e. executed after 1/70 came into force, is also not valid.
3. The argument of the counsel for petitioner that oral gift towards Pasupu Kumkuma not requires any writing or registration as held by the Hon'ble High Court. But, the judgement of the Hon'ble High Court is related to exclusion of land given to daughter/sister as Pasupu Kumkuma in Ceiling Lands cases and it has no relevance to the present case since the land is not Ceiling land and falling in scheduled area governed by Regulation 1/59 and 1/70 Acts, according to which any transfer/possession of land without valid documentary evidence is null and void.

5. Government after careful examination of the case records of petitioner hereby find no reason to interfere with the orders of the Lower Courts and uphold the orders of Agent to Government, West Godavari, Eluru in S.R..A No: 8/99, dated: 14-2-2001 as the transaction made without valid documentary evidence is null and void. The Revision Petition is dismissed accordingly. The stay granted in Govt.Memo.No. 7025/LTR1 /2001 -1, dated 20-6-2001 shall become inoperative.

6. The counsel for the petitioner is requested to inform his clients. The Collector ,West Godavari/Additional Agent to Government , Eluru are requested to take necessary action in the matter

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

V.NAGI REDDY,
SECRETARY TO GOVERNMENT

To

The Collector, West Godavari District.

(With RPAD for the following records)

LTR Case SR No: 699/85 containing 1-10 pages only.

SR No.700/85 containing pp.1-58.

SRA No: 8/99 containing 1-198 CF and 1-8 NF pages only.

The Additional Agent to Government, Eluru.
The Special Deputy Collector, (TW) Kota Ramachandrapuram, W.G..
Smt Nandamuri Atchamamba W/o Satyanarayana Murthy
R/o Rajampalem (V) West Godavari Eluru
Smt Daparthi Sumathi W/o Satyanarayana Murthy
R/o Repallewada vg. Gopalapuram (M) West Godavari.
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Sri C.C.S.Sastry, Advocate,
H.No.6-2-45/10, A.C.Guards, Advocagte Colony,Hyderabad-4.
Copy to P.S to M(TW&RIAD)

SF/Sc

FORWARDED:BY ORDER

SECTION OFFICER